**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 3861 of 1998**
**With**
**SPECIAL CIVIL APPLICATION No. 6771 of 1998**

**For Approval and Signature:**
**HONOURABLE MR.JUSTICE M.R. SHAH**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**BHAVNABEN MAGANLAL JOSHI - Petitioner(s)**
**Versus**
**GUJARAT ELECTRCITY BOARD & 1 - Respondent(s)**

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**Appearance : (S.C.A.No.3861 of 1998)**

MR KH BHAYA for Petitioner(s) : 1,
MR NK MAJMUDAR for Respondent(s) : 1,
MR TUSHAR MEHTA for Respondent(s) : 1 – 2.

**Appearance : (S.C.A.No.6771 of 1998)**

MR GH BHATT for Petitioner(s) : 1 – 2,

MR NK MAJMUDAR for Respondent(s) : 1 – 2.

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**CORAM : HONOURABLE MR.JUSTICE M.R. SHAH**

**Date : 22/03/2007**
**COMMON ORAL JUDGMENT**

1. As common questions of law and facts arise in both these petitions, they are being disposed of

by this common judgment and order.

2. By way of these petitions under Article 226 of the Constitution of India, the respective petitioners who were at the relevant time working as apprentices with the Gujarat Electricity Board (hereinafter referred to as “the G.E.B.” for short) i.e. in the year 1985 have prayed for an appropriate writ, direction and/or order directing the respondents to absorb the petitioners in service by providing suitable employment in view of their qualifications in the Office of the respondent No.2 and in the employment of the respondent Board. It is also further prayed for an appropriate writ, direction and/or order directing the respondents to grant deemed date of employment treating the petitioners in the employment from the date on which their immediate juniors were absorbed in service by the respondents.

3. It is the case of the petitioner of Special Civil Application No.3861 of 1998 that the

petitioner was selected as apprentice by the G.E.B. by office order dated 14th March, 1985 and pursuant thereto, she had undergone the apprenticeship for the period of one year from 18th March, 1985 to 17th March, 1986. It is also further submitted that she has passed the requisite Trade Test (Book Keeping & Accountancy) Examination, which was held during the period from 21st April, 1986 to 30th April, 1986 and that she had submitted an application on 20th September, 1986 to the respondents for absorbing her in suitable service on permanent basis. It is submitted that the petitioner was placed in waiting list, however, considering the Circular dated 7th December, 1984, the petitioner was treated age barred and therefore, the petitioner submitted an application to relax the age and continue her in the waiting list. It is submitted that though other employees were granted relaxation of age, however, the petitioner was not granted the age relaxation and the name of the petitioner has been deleted from the waiting list and therefore, the present

Special Civil Application has been filed.

4. Similarly, the case of the petitioner of Special Civil Application No. 6771 of 1998 is that they were appointed as apprentices in the year 1983 and they have undergone the apprenticeship for the period of one year i.e. from 31st March, 1983 to 30th March, 1984 and similar applications were made for making them permanent and they were also put in the waiting list, however, subsequently, on the basis of the Circular dated 7th December, 1984 their names have been deleted from the waiting list and therefore, the present Special Civil Application has been filed.

5. Learned advocate appearing on behalf of the petitioners has heavily relied upon the decision of the Hon'ble Supreme Court rendered in case of ***U.P. State Road Transport Corporation & Another V/s. U.P. Parivahan Nigam Shishukhs Berozgar Sangh & Others*** reported in **AIR 1995 SC 1115.** Relying upon the aforesaid judgment, it is submitted that as held by the Hon'ble Supreme

Court, certain factors / guidelines are required to be issued by the respondents for absorbing the apprentices inter-se, however, the petitioners are not appointed on permanent basis after completion of their apprenticeship and therefore, the action of the respondents is contrary to law laid down by the Hon'ble Supreme Court laid down in the aforesaid judgment.

6. On the other hand, learned advocates appearing for the respondents have relied upon the decision of the learned Single Judge of this Court rendered in **Special Civil Application No. 1293 of 2002** and it has been submitted in the said matter that a similar case was made by the empaneled apprentice and the claim has been rejected by the learned Single Judge relying upon the decision of the learned Single Judge in the matter of **Rajesh H. Hindocha V/s. Gujarat Electricity Board** (Special Civil Application No. 5302/1997 decided on 16th October, 1997). It is also further submitted by the learned advocates appearing for the respondents that so far as

G.E.B. is concerned, it is not that there is no policy of the G.E.B. in not absorbing the apprentice. It is submitted that in fact, the Board adopted the Gujarat Electricity Board Commercial Trade Apprentice Recruitment Procedure and as per the said order, merit list of apprentices were required to be prepared on the basis of the percentage of markets obtained by the candidates in matriculation examination with bonus marks being added for higher academic qualifications, on completion of one year apprenticeship those who have satisfactorily completed training and who have been found suitable were considered as eligible for examination for appointment as Junior Assistant on probation. It is submitted that initially the office order was of 13th December, 1978 and the same was further modified and/or amended vide Circular dated 7th December, 1984 and the appointments are to be made amongst the apprentices on the basis of the Circular dated 7th December, 1984 and therefore, it is submitted that when the G.E.B. itself is having the policy

to absorb the apprentices on certain conditions and on merits, the judgment of the Hon'ble Supreme Court in case of ***U.P. State Road Transport Corporation & Another*** (supra) would not be of any assistance to the petitioners. Therefore, it is requested to dismiss the present Special Civil Applications.

7. Heard the learned advocates appearing on behalf of the respective parties.

8. It is required to be noted that all the petitioners were appointed as apprentices in the year 1983-84 and the present Special Civil Applications are filed in the year 1998. Initially, they were placed in the waiting list of the apprentices prepared on the basis of the relevant office order dated 13th December, 1978 and thereafter, vide Circular dated 7th December, 1984. By Circular dated 7th December, 1984, the earlier office order dated 13th December, 1978 has been modified and/or amended and it has been decided vide Circular dated 7th December, 1984

that the waiting list should be prepared on the basis of the merits only and the select list will be prepared on the basis of the marks rating of apprenticeship, who have completed apprenticeship in the month of August i.e. names of those who are in the waiting list and of those who will complete their training satisfactorily subsequently, should be combined in one list on the basis of the marks rating August every year. Under the new system, people with highest marks rating alone, will be absorbed and the said would be the criteria and not the dates of completion of apprenticeship. As per the example, if persons in particular year's list for absorption as Junior Assistants have higher marks rating than those carried forwarded from the previous year's list, the candidate in the previous years list who have less marks than those in the current year's should be brought down in the list as per rating and not considered for absorption until after all those with highest rating have been fully absorbed. Thus, considering the policy of the

G.E.B. and the Circulars, it cannot be said that there is no policy at all to absorb the apprentices after completion of apprenticeship. In the case before the Hon'ble Supreme Court in case of ***U.P. State Road Transport Corporation & Another*** (supra), the Hon'ble Supreme Court emphasized to adopt and/or frame a policy to absorb apprentices on completion of apprenticeship and the guidelines have been issued by the Hon'ble Supreme Court. While in the present case so far as G.E.B. is concerned, there is a policy to absorb the apprentices. However, as per the Circular dated 7th December, 1984, more weightage has been given to the marks rating and it has been decided to absorb the apprentices on the basis of their marks rating, which cannot be said to be in any way illegal. Thus, considering the facts and circumstances of the case and the policy of the G.E.B. and the Circulars, the decision of the Hon'ble Supreme Court in case of ***U.P. State Road Transport Corporation & Another*** (supra) will not be of any assistance to the petitioners. On the contrary,

as stated above, G.E.B. itself is having the policy to absorb the apprentices on completion of their apprenticeship on certain conditions and on merits.

9. Identical question came to be considered by the learned Single Judge in the matter of **Rajesh H. Hindocha V/s. Gujarat Electricity Board** (Special Civil Application No. 5302/1997 decided on 16th October, 1997) and in the matter of **Joshi Shailesh Kantilal V/s. Gujarat Electricity Board & Others** (Special Civil Application No. 1293/2002 decided on 9th December, 2003) and in the aforesaid two matters, a similar claim was made by the empaneled apprentices and their claims are rejected by the learned Single Judge of this Court. Considering the aforesaid two decisions of the learned Single Judge and the facts and circumstances of the case and the Circular dated 7th December, 1984, when the petitioners were not found more meritorious than those who were appointed earlier on the basis of their marks obtained were appointed considering

the Circular dated 7th December, 1984 and subsequently petitioners' names were removed from the waiting list hence, it cannot be said that there is any illegality committed by the G.E.B. and/or the respondents. The names in the waiting list are not required to be continued for years together. In the present case, as stated above, the petitioners have completed their apprenticeship in the year 1983-84 and the present Special Civil Applications have been filed in the year 1998 by which they are claiming their rights on the basis of their apprenticeship in the year 1983-84. They cannot be continued in waiting list for years together. Under the circumstances, the petitioners are not entitled to any relief as prayed for on the basis of their apprenticeship in the year 1983-84.

10. For the reasons stated above, both the petitions fail. Rule discharged in each of the petition. Interim relief, if any, stands vacated forthwith. However, in the facts and

circumstances of the case, there shall be no order as to costs.

[ M.R.Shah, J.]

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